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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF WASHINGTON

9 ELF-MAN, LLC,

10 Plaintiff,

11 v.

12 RYAN LAMBERSON,

13 Defendants.

Civil Action No. 13-cv-00395 TOR

REPLY IN SUPPORT OF  
PLAINTIFF'S MOTION TO STRIKE

1/16/15

Without Oral Argument

15 Defendant Lamberson's opposition merely compounds the problems with the  
16 earlier filings that necessitated Plaintiff Elf-Man, LLC's motion to strike. Pursuant to  
17 Fed. R. Civ. P. 12(f), the latest Lynch declaration and each of the exhibits thereto  
18 should be stricken as immaterial, impertinent, improper hearsay and untimely for the  
19 same reasons as those previously submitted.

20 **A. Within ECF No. 107 Lynch Declaration:**

21 Paragraphs 3, 8, 10, 12, 15-16, 19-20 and 26 (related to third parties) for the  
22 same reasons as set forth in ECF No. 105 with respect to paragraphs 8, 10, 12, 15-16,  
23 19-20 and 26 of the prior Lynch Declaration (ECF No. 104).

1 Paragraphs 4 and 6-7 (related to alleged billings) for the same reasons as set forth  
 2 in ECF No. 105 with respect to paragraphs 4-7 of the prior Lynch Declaration (ECF  
 3 No. 104).

4 Paragraphs 5, 8-9, 11, 13, 20-23, 27 (related to the merits of the case and various  
 5 alleged sanctions) for the same reasons as set forth in ECF No. 105 with respect to  
 6 paragraphs 8-9, 13, 21-22, 15, 20-23, 27 of the prior Lynch Declaration (ECF No. 104).

7 Paragraphs 14, 17-18 and 24-25 (related to irrelevant and/or speculative  
 8 statements) for the same reasons as set forth in ECF No. 105 with respect to  
 9 paragraphs 14, 17-18 and 24-25 of the prior Lynch Declaration (ECF No. 104).

10 **B. ECF No. 107-1 in its entirety**

11 Exhibit A to the Lynch Declaration consists entirely of declaration of Daniel  
 12 Macek in his capacity as an investigator for a different BitTorrent plaintiff from a case  
 13 outside this jurisdiction. There is nothing to tie this declaration to this case.

14 **C. ECF No. 107-2 in its entirety**

15 Exhibit B to the Lynch Declaration consists entirely of declaration of Tobias  
 16 Fieser, apparently in his capacity as an investigator for IPP International UG for a  
 17 different BitTorrent plaintiff from a case outside this jurisdiction. There is nothing to tie  
 18 this declaration to this case.

19 **D. ECF No. 107-3 in its entirety**

20 Exhibit C to the Lynch Declaration consists entirely of inadmissible, third party  
 21 hearsay statement, utterly lacking foundation. This ostensibly relates to an early stage of  
 22 litigation in Australia involving unrelated plaintiff and defendant, and therefore wholly  
 23 immaterial to the present case and issues.

1           **E. ECF No. 107-4 in its entirety**

2           Exhibit D to the Lynch Declaration consists entirely of inadmissible, third party  
 3           hearsay statement, utterly lacking foundation. This ostensibly is a complaint involving a  
 4           different plaintiff and defendants in a different jurisdiction. There is nothing to tie this  
 5           pleading to this case.

6           **F. ECF No. 107-5 in its entirety**

7           Exhibit E to the Lynch Declaration consists of another declaration of Darren  
 8           M. Griffin, a former investigator for BitTorrent plaintiffs from a different case in a  
 9           different jurisdiction. There is nothing to tie this declaration to this case.

10           **G. ECF No. 107-6 in its entirety**

11           Exhibit F to the Lynch Declaration consists entirely of inadmissible, third party  
 12           hearsay statement, utterly lacking foundation. This ostensibly is a “typed-up chart of  
 13           alleged infringement.” Even if substantiated, there is nothing to tie this document to this  
 14           case.

16           **H. ECF No. 106 Opposition**

17           Any portions of Defendant’s opposition that refers to or incorporates any matter  
 18           struck from the Lynch declaration and exhibits.

19           Defendant again submits an improper Lynch declaration and exhibits that are  
 20           almost wholly comprised of immaterial, impertinent, improper hearsay and untimely  
 21           matter. Pursuant to Fed. R. Civ. P. 12(f), Plaintiff respectfully submits that the above-  
 22           identified matters, including in ECF. Nos. 106, 107-1, 107-2, 107-3, 107-4, 107-5 and  
 23           107-6 should be struck.

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RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of December, 2014.

s/David A. Lowe, WSBA No. 24,453  
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REPLY IN SUPPORT OF PLAINTIFF'S MOTION  
TO STRIKE - 4  
Civil Action No. 13-cv-00395  
INIP-6-0001P10 RSPMStrike

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2                   **CERTIFICATE OF SERVICE**  
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7                   The undersigned hereby certifies that a true and correct  
8 copy of the foregoing document has been served to all  
9 counsel or parties of record who are deemed to have  
10 consented to electronic service via the Court's CM/ECF  
11 system.  
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